

(3) In exceptionally complex procurements, a source selection method other than MidRange Best Value Selection may be more appropriate. This may be appropriate in cases in which the following factors cannot be accommodated within the MidRange/BVS selection methodology:

- (i) The ability to predefine the value characteristics that will constitute the discriminators among the offers;
- (ii) The complexity of the interrelationships that must be evaluated;
- (iii) The number of evaluators required to address the disciplines that will be involved in the offers; or
- (iv) The impact that the procurement may have on higher level mission management (level of selection official) or future procurements.

(4) See FAR 15.304, FAR 15.305(a)(2), and 1815.305(a)(2) regarding the evaluation of past performance.

(5) When proceeding with an unrestricted acquisition see—

(i) FAR Subpart 19.11 regarding use of the price evaluation adjustment for SDB concerns. SDB concerns that choose the FAR 19.11 price evaluation adjustment shall receive no consideration under a MidRange BVS value characteristic that addresses the FAR 19.1202 SDB participation evaluation;

(ii) FAR 19.1202 regarding the evaluation of the participation of SDB concerns in performance of the contract. For BVS MidRange acquisitions, SDB participation shall be evaluated as a BVS value characteristic (see 1871.603(b)); and

(iii) FAR Subpart 19.13 regarding use of the price evaluation preference for HUBZone small business concerns.

(b) Procedures. (1) The buying team will determine which of the source selection methodologies is most appropriate to the specific procurement.

(2) The team shall record its rationale for selecting a methodology rather than BVS. Once this decision is made, the team shall no longer function as a MidRange buying team, but shall follow the instructions prescribed in the local procedures for the source selection method.

[61 FR 55758, Oct. 29, 1996, as amended at 63 FR 9966, 9967, Feb. 27, 1998; 64 FR 19928, Apr. 23, 1999]

#### **1871.401-5 Noncompetitive negotiations.**

(a) Policy. (1) The RFO may be used as the solicitation method for noncompetitive procurements.

(2) MidRange procedures may be used in noncompetitive acquisitions to the extent they are applicable.

(b) Procedures.

(1) The buying team shall request pricing information in accordance with FAR 15.402 and 15.403.

(2) The technical member of the buying team shall provide technical assistance to the procurement member during evaluation and negotiation of the contractor's offer.

[61 FR 55758, Oct. 29, 1996, as amended at 64 FR 19928, Apr. 23, 1999]

#### **1871.401-6 Commercial items.**

(a) Policy. (1) MidRange procedures are considered consistent with the requirements of FAR part 12, Acquisition of Commercial Items. In the event of a conflict, however, FAR part 12 takes precedence.

(2) MidRange procedures may also be used, to the extent applicable, for commercial item acquisitions accomplished under FAR subpart 13.5, Text Program for Certain Commercial Items.

(3) Contract type shall be in accordance with FAR 12.207.

(b) Procedures. The offices will be evaluated in accordance with applicable procedures, and shall include consideration of technical, past performance, and price.

[61 FR 55758, Oct. 29, 1996, as amended at 62 FR 4477, Jan. 30, 1997; 63 FR 71604, Dec. 29, 1998]

#### **1871.402 Preparation of the RFO.**

(a) The RFO shall provide all standard information required for the offeror to submit an offer.

(b) The RFO shall contain space for all necessary additional instructions to offerors. As a minimum, the RFO shall contain the following:

(1) Incorporation by reference of all required standard provisions.

(2) A provision notifying offerors that standard Representations and Certifications will be required.

(3) Evaluation and award criteria.

#### **1871.404**

(4) A provision requiring offerors to submit offers on an attached model contract.

(c) Requirements for the content and format of the offer should be the minimum required to provide for proper evaluation. Offerors' formats should be allowed to the maximum extent possible.

(d) Facsimile offers, defined by FAR 14.202-7 and FAR 15.203(d), are authorized for MidRange procurements.

[61 FR 55758, Oct. 29, 1996, as amended at 63 FR 9967, Feb. 27, 1998]

#### **1871.404 Protection of offers.**

A facsimile machine(s) shall be dedicated for receipt of offers and placed in a secure location where offers received on it can be safeguarded. All offers submitted shall be recorded, sealed in an envelope marked with the RFO number and taken to the buying team procurement member. Facsimile attendants shall make a good faith effort to inspect the document for completeness and legibility. If the attendant believes there are missing or illegible pages, the document will be promptly referred to the buying team procurement member for notification to the offeror that it should resubmit the offer. The Government shall not assume responsibility for proper transmission.

### **Subpart 1871.5—Award**

#### **1871.501 Representations and certifications.**

Upon determination of the successful offeror, the buying team procurement member will determine if the offeror has on file valid Representations and Certifications. If the offeror has not completed the required forms, or they have expired, the offeror will be requested to provide the forms promptly. Should the offeror refuse to provide the required Representations and Certifications or fail to meet a required condition, the buying team shall reject the offer and proceed to the next highest ranked offeror who is responsive and responsible.

#### **48 CFR Ch. 18 (10-1-02 Edition)**

#### **1871.502 Determination of responsible contractor.**

Contractor responsibility shall be determined in accordance with FAR part 9.

#### **1871.503 Negotiation documentation.**

The prenegotiation memorandum, if required, and the results of negotiation will be in abbreviated form and will be approved by the buying team.

#### **1871.504 Award documents.**

Contract award shall be accomplished by contracting officer execution of the contract document and providing a paper copy to the successful offeror. If facsimile documents were used in the evaluation process, the successful offeror may be required to execute original copies of the contract to facilitate legibility during the administration phase of the contract.

#### **1871.505 Notifications to unsuccessful offerors.**

For solicitations that were posted on the NAIS, a preaward notice shall be electronically transmitted to the offerors. In addition, contracting officers shall comply with the preaward notices for small business programs in FAR 15.503(a)(2).

[64 FR 19928, Apr. 23, 1999]

#### **1871.506 Publication of award.**

An award notice shall be posted on the NAIS for 7 calendar days after posting, if the contract offers subcontracting opportunities or if it is subject to the Trade Agreements Act. The information required by FAR 5.207 shall be included in the award notice in abbreviated form.

#### **1871.507 Debriefing of unsuccessful offerors.**

The procurement buying team member shall conduct debriefings if requested.